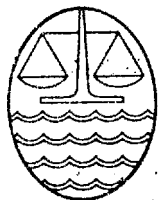




UNITED NATIONS



THIRD CONFERENCE ON THE LAW OF THE SEA

PROVISIONAL

For participants only

A/CONF.62/C.2/SR.42
21 August 1974

ORIGINAL: ENGLISH

Second Session

SECOND COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE FORTY-SECOND MEETING

Held at the Parque Central, Caracas,
on Monday, 19 August 1974, at 12.15 p.m.

Chairman:

Mr. PISK

Czechoslovakia

Rapporteur:

Mr. NANDAN

Fiji

CONTENTS

Consideration of subjects and issues and related items: introduction
of draft proposals (continued)

Corrections to this record should be submitted in one of the four working languages (English, French, Russian or Spanish), preferably in the same language as the text to which they refer. Corrections should be sent in quadruplicate within fifteen working days to the Chief of the Official Records Editing Section, Department of Conference Services, room LX-2332, United Nations, New York N.Y. 10017, USA, and also incorporated in one copy of the record.

AS THIS RECORD WAS DISTRIBUTED ON 21 AUGUST 1974, THE TIME-LIMIT FOR CORRECTIONS WILL BE 12 SEPTEMBER 1974.

The co-operation of participants in strictly observing this time-limit would be greatly appreciated.

C-5441

Approved For Release 2002/04/01 : CIA-RDP82S00697R000300040040-9

/..

A/CONF.62/C.2/SR.42

English

Page 2

CONSIDERATION OF SUBJECTS AND ISSUES AND RELATED ITEMS: INTRODUCTION OF DRAFT PROPOSALS
(A/CONF.62/L.49, L.54, L.64, L.66) (continued)

Mr. JEANNEL (France), introducing document A/CONF.62/C.2/L.54 on behalf of the sponsors, said that the principles and provisions of the 1958 Geneva Convention on the High Seas should be retained for the area beyond the territorial sea, subject to any modifications that might be necessary because of the introduction of new provisions.

The sponsors felt it necessary to state precisely the obligations of the flag State since the relevant articles of the Geneva Convention were incomplete. Article 6 bis of their draft made article 5 of the Geneva Convention more explicit with respect to the responsibilities of the flag State. Article 10 of the draft was intended to ensure safety at sea and article 21 bis provided for co-operation by all States in the suppression of the illicit traffic in narcotic drugs by ships on the high seas. The provisions of article 21 bis, paragraph 2 were included to prevent ships of small tonnage from discharging illicit cargo before entering ports. Article 21 ter was intended to repress unauthorized broadcasting from the high seas, particularly commercial and propaganda broadcasts.

The sponsors felt that their proposals could form the basis for useful discussions at the next session of the Conference.

Mr. VOHRAH (Malaysia) introduced document A/CONF.62/C.2/L.64, which contained amendments to the draft articles relating to archipelagic States contained in document A/CONF.62/C.2/L.49.

He drew attention to the statements made by his delegation on the question of archipelagos at the 35th plenary meeting and at the 25th and 37th meetings of the Second Committee. On each of those occasions, his delegation had stressed the importance of the archipelagic concept and its practical implications to Indonesia and the other countries of the South-East Asia region.

His delegation had decided to support the archipelagic concept despite the fact that it would create special, and indeed unique, problems for Malaysia. A glance at a map of the South-East Asia region would enable the members of the Committee to understand the extent of the sacrifice that his Government was making in order to meet the aspirations of its neighbours in the pursuit of their archipelagic claims. The two parts of his country - West Malaysia and East Malaysia - were separated by the

(Mr. Vohrah, Malaysia)

South China Sea, in which there were two small groups of Indonesian islands. The archipelagic boundary claimed by Indonesia would encompass both groups of islands, with the result that Malaysia's access to and communications through the high seas between the two parts of its territory would be severed. Consequently, it would be deprived of links that were vital to the maintenance of its geographical, economic and political unity as a sovereign and integral nation State. The situation of Malaysia was, he believed, unique in that respect.

It would be recalled that a vague provision aimed at accommodating the rights and interests of a country affected by archipelagic claims had been included in article 6, paragraph 2, of document A/CONF.62/L.4. His delegation, however, had expressed its reservations concerning that paragraph, which failed to take full account of the serious problems that his country would face, and also concerning the provisions of article 7 of the same document.

The formulation in article 2, paragraph 5, of document A/CONF.62/C.2/L.49, while it represented improvement on previous formulations, should, his delegation believed, take into account both direct access and all forms of communications. It should also clearly state that such rights of direct access and communications should continue to be recognized and guaranteed by the archipelagic State. That was why his delegation had submitted the first of the two amendments contained in document A/CONF.62/C.2/L.64.

His delegation was also of the view that articles 4 and 5 of document A/CONF.62/C.2/L.49, as formulated at present, would have the effect of qualifying article 2, paragraph 5, of the same document, and would thus render the notion contained therein meaningless as far as Malaysia was concerned. It had accordingly proposed a second amendment in document A/CONF.62/C.2/L.64 which would remedy that defect.

While his delegation supported the archipelagic concept, it must insist that the new rights established for the archipelagic States did not destroy or jeopardize the legitimate and existing rights of other States. Before the archipelagic concept could become a norm of international law, there must be some accommodation of the existing rights of States that would be adversely affected by archipelagic claims. Such accommodation should be no means be regarded as a concession on the part of archipelagic States: rather it was crucial for the maintenance of peace and friendly relations among States in any region.

/...

English

Page 4

(Mr. Vohrah, Malaysia)

His delegation would like the amendments contained in document A/CONF.62/C.2/L.64 to be reflected in the revised version of the informal working paper relating to archipelagos.

Mr. WISNOEMOERTI (Indonesia) expressed his delegation's appreciation to the representative of Malaysia for submitting document A/CONF.62/C.2/L.64. His delegation wondered, however, what was the reason for including the words "access and all forms of communications" in the amendment to article 2, paragraph 5, of document A/CONF.62/C.2/L.49. The sponsors of the latter document had recognized the need to avoid a situation where the concept of an archipelagic State might interfere with the direct communications between one part and another part of the territory of an immediately adjacent neighbouring State. As it stood, article 2, paragraph 5, of the document provided for the maintenance of such direct communications. In drafting the paragraph, the sponsors had considered that the words "direct communication" were quite adequate for that purpose. The words "access and all forms of" were therefore superfluous and could be interpreted so as to include activities other than mere direct communications, a situation to which his delegation would object.

Since consultations on the problem between the Indonesian Government and the Governments of neighbouring countries were still being pursued, his delegation would refrain, for the time being, from giving its final views on the amendment in document A/CONF.62/C.2/L.64.

Mr. O'DONOGHUE (New Zealand), introducing document A/CONF.62/C.2/L.66, said that the reasons for extending the right of hot pursuit to violations in the economic zone or on the continental shelf had been fully explained in his statement at the 31st meeting of the Committee. He therefore requested the Committee to take note of the draft article in the document which he had just introduced.

Mr. ARIAS-SCHREIBER (Peru) asked the sponsors of document A/CONF.62/C.2/L.54 to clarify the meaning of article 6 bis, paragraph 3, of their draft. That paragraph provided that in taking the required measures, the flag State should conform to generally accepted international norms. It did not say that the flag State should take such measures in accordance with its national regulations, which took account of those international norms (de acuerdo con los reglamentos del propio país que tengan en cuenta

A/CONF.62/C.2/SR.42

English

Page 5

(Mr. Arias-Schreiber, Peru)

as normas internacionales). In other words, it provided that the national regulations should merely reproduce the international regulations. That seemed to be out of line with article 10, paragraph 2, the Spanish text of which provided that in taking such measures, States should bear in mind international norms ("los Estados tendrán en cuenta las normas internacionales ..."). He wondered whether the sponsors had really intended there to be a difference between the two paragraphs he had mentioned.

Mr. LABROUSSE (France), speaking on behalf of the sponsors, said that the Peruvian representative's question had been noted; a reply would be given at a subsequent meeting.

The meeting rose at 12.45 p.m.